

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

EDUARDO CORTEZ, on behalf of himself
and all others similarly situated,

Plaintiffs,

v.

CALIFORNIA MUFFLERS AND BRAKES
DISCOUNT, and MAXIMILIANO
CHAVEZ, FERNANDO CHAVEZ, and
JESUS NUNEZ, individually,

Defendants.

No. 08 C 415

Judge Grady
Magistrate Judge Keys

**DEFENDANTS' MOTION FOR LEAVE TO FILE THEIR ANSWER TO PLAINTIFF'S
FIRST AMENDED COMPLAINT AND COUNTERCLAIMS INSTANTER AND FOR
EXTENSION OF TIME TO COMPLETE DISCOVERY**

Defendants, by and through their attorneys, Caffarelli & Siegel Ltd., move for leave to file their Answer to Plaintiff's First Amended Complaint and Counterclaims, instanter, and to extend the time to complete discovery by sixty (60) days. In support of their motion, Defendants state:

1. On January 18, 2008, Plaintiff filed his Complaint, alleging violations of the Fair Labor Standards Act and Illinois Minimum Wage Law. Plaintiff subsequently filed an Amended Complaint on February 19, 2008.
2. Defendants filed a pro se Answer to the Complaint on March 5, 2008.
3. On March 18, 2008, Plaintiff filed a motion for default judgment because Defendants did not file an Answer to the Amended Complaint.

4. On April 2, 2008, the Court denied Plaintiff's motion for default judgment, as well as Plaintiff's oral motion for class certification. Moreover, the Court instructed Defendants to retain counsel.

5. On April 18, 2008, Defendants formally retained Caffarelli & Siegel Ltd. as their attorneys.

6. Defendants have yet to file their Answer to the First Amended Complaint, and therefore seek leave to file their Answer and Counterclaims, instant. A copy of Defendants' Answer to Plaintiff's First Amended Complaint and Counterclaims is attached as Exhibit A.

7. Discovery is currently set to close on May 30, 2008. As such, the parties must serve all written discovery no later than April 30, 2008 in order to allow the other party to respond before the discovery deadline.

8. The parties currently would be unable to conduct written discovery relating to Defendants' Answer to the Amended Complaint, or Defendants' counterclaims.

9. Defendants had less than two weeks from the time they retained counsel to serve Plaintiff with discovery related to his claims.

10. Defendants seek an additional sixty (60) days for discovery in order to serve interrogatories, document requests, and requests to admit on Plaintiff, as well as take any depositions that they deem necessary.

11. Defendants are not filing this motion for the purpose of prejudicing Plaintiff or causing delay. Rather, Defendants wish to ensure that discovery can properly and thoroughly be taken on all aspects of this matter.

WHEREFORE, Defendants respectfully request this Honorable Court to grant their motion for leave to file their Answer to the First Amended Complaint and Counterclaims, instanter, and to extend discovery for an additional sixty (60) days.

Dated: April 30, 2008

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Respectfully submitted,

Defendants CALIFORNIA MUFFLERS
AND BRAKES DISCOUNT, and
MAXIMILIANO CHAVEZ, FERNANDO
CHAVEZ, and JESUS NUNEZ

By: /s/ Alejandro Caffarelli
Attorney for Defendants